

MINUTES OF INSOLVENCY LAW COMMITTEE MEETING
OCTOBER 10, 2002
MONTEREY, CALIFORNIA

The meeting was called order at 10:05 a.m.

The following members attended the meeting in person:

- Judy Gibbs
- Robert Harris

The following members attended the meeting by teleconference:

- Mike Buckley*
- Peter Bronson
- Dan Schechter*
- Bob Franklin*
- Ben Young
- Kathy Phelps
- Molly Baier*
- Lisa Pfenning*
- Greg Lunt
- Tom Phinney
- Rhonda Nelson*
- Geraldine Valdez

No quorum of 2001-2002 members was achieved during the meeting.

Consideration of the minutes from September 12, 2002, was deferred to the November 22, 2002 meeting due to the lack of a quorum.

Ben graciously welcomed our new members and thanked them for their anticipated participation on ILC.

Eric Sagerman's formal approval as a new member of ILC was deferred to the November 22, 2002 meeting due to the lack of a quorum.

Dan Schechter and **Lisa Fenning** agreed to act as the respective State law and Federal law legislative liaisons.

Bob Franklin agreed to consider volunteering to be the Constituency/Outreach project coordinator subject to further discussion with Rob Harris.

Mike Buckley agreed to assist Vice-Chair Geraldine Valdez as the web site coordinator.

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Kathy Phelps gave a report on the Updates Program set for the Winter Section Institute and confirmed that she had speakers lined up, as well as a topic and program description. Kathy's substantial effort to meet a deadline for a request for a program was recognized.

Rob Harris provided an update on the status of the Outreach Constituency project, offering a history and overview of the project, its goals, its methods and past successes. Rob then provided an outline of the ideas that have, over the last year, been floated to support the project and tailor ILC's role in it to suit the needs of bankruptcy lawyers.

Rob Harris then provided a status report on the Affirmative Legislative Proposal to index California's bankruptcy-only exemptions and exemptions from execution. Rob described how the proposal got from ILC through the Board of Governors, his meeting with the California Law Review Commission, how the joint legislative proposal came about, and the timing for a comment on CLRC's draft. Though a quorum was not present, the consensus was to approve the CLRC proposal as written and utilize whatever sway the Bar's lobbyist Larry Doyle could offer once Executive Committee gave its approval. Rob agreed to contact Larry to follow up indicated that he would also speak to the Bar's other legislative assistant, Terry Miller, to get ideas as to how to proceed.

Ben Murphy led a discussion of the Model Real Estate order and asked if any judges were using it or had comments on it. Geraldine Valdez advised that she had had at least one Judge sign it in a case.

Rob Harris agreed by the next meeting to advise the Committee of the status of AB 2473 regarding priority in bankruptcy for the issuance of gift certificates.

The Committee then conducted a detailed discussion of the proposed amendment to Federal Rule of Bankruptcy Procedure 9014 allowing the opt out from mandatory Rule 26 disclosures in contested matters. The basis for the change is that contested matters are resolved too quickly for Rule 26 to come into play to apply in any case. The Committee commented generally that the proposal fixes a problem that everyone is now ignoring anyway. Lisa Pfenning noted that any complex contested matter would likely have a discovery order of its own in short order, so the perception that there is a problem may be overblown. Rob Harris will have a draft comment for ILC to support the suggested change.

Discussion of making Chapter 12 permanent through H.R. 188 was tabled until the November 22nd meeting. Discussions of S.2996 and S.2798 will be taken off the agenda as they appear to have died in the Congress.

No one believed that a legislative update was needed for the next issue of the Business Law News. Dan Schechter volunteered to write the article (due 5/8/03) for ILC's

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mandatory contribution to the Business Law News.

The meeting was concluded at 12:24 p.m.

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